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8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10 SAN FRANCISCO DIVISION
11

12 UNITED STATES OF AMERICA,)	No.
)	
13 Plaintiff,)	VIOLETIONS: 15 U.S.C. § 1 and 18 U.S.C.
14 v.)	§ 2 – Collusion and Aiding and Abetting; 18
)	U.S.C. §§ 1343 and 2 – Wire Fraud and
15 VIDEO NETWORK COMMUNICATIONS,)	Aiding and Abetting; 18 U.S.C. § 371 –
16 INC.,)	Conspiracy
HOWE ELECTRIC, INC.,)	
17 SEMA4, INC.,)	SAN FRANCISCO VENUE
DIGITAL CONNECT COMMUNICATIONS,)	
18 INC.,)	
EXPEDITION NETWORKS, LTD.,)	
19 ADJ CONSULTANTS, INC.,)	
JUDY GREEN,)	
20 ALLAN GREEN,)	
GEORGE MARCHELOS,)	
STEVEN NEWTON, and)	
21 EARL NELSON,)	
Defendants.)	

22
23
24 INDICTMENT

25 The Grand Jury charges:

26 INTRODUCTION

27 At all times relevant to this Indictment:

28 1. E-Rate was a program created by Congress in the Telecommunication Act of 1996 and

INDICTMENT

1 operated under the auspices of the Federal Communications Commission ("FCC") to provide
2 funding to connect schools and libraries to the Internet. The FCC designated the
3 Universal Services Administrative Company ("USAC"), a non-profit corporation, to administer
4 the E-Rate program. The E-Rate program collected substantial quantities of money monthly
5 from telecommunications customers across the country to fund the program.

6 2. The E-Rate program was designed to ensure that the neediest schools receive the most
7 financial help. All participating school districts were required to fund a percentage of the cost of
8 the equipment and services acquired under the E-Rate program (hereinafter referred to as "co-
9 pay"). The amount of the co-pay was based on the number of students in the district qualifying
10 for the United States Department of Agriculture's school lunch program, with the neediest school
11 districts eligible for the highest percentage of funding. However, even the neediest schools were
12 required to fund at least 10% of the cost of the acquired equipment and services.

13 3. During the relevant period, school district applications for E-Rate funding far exceeded
14 the funding available. USAC had the following rules and procedures to ensure that E-Rate
15 funding was distributed to the widest number of qualifying applicants: (1) only USAC-approved
16 equipment, services, and supplies were eligible for funding; (2) schools could seek funding only
17 for projects for which the schools had budgeted funds for their co-pay amount and for the
18 purchase of the end-user equipment and services necessary to utilize the applied-for equipment
19 and services; (3) service providers or their agents could not participate in the vendor selection
20 process or the completion of forms necessary for the schools to receive E-Rate funding in order
21 to avoid a conflict of interest or even the appearance of a conflict of interest; and (4) school
22 districts were required to follow local and state law competitive bidding procedures to ensure that
23 the school districts received the most cost-effective bids from the responsive bidders.

24 DEFENDANTS COMMON TO ALL WIRE FRAUD COUNTS

25 4. VIDEO NETWORK COMMUNICATIONS, INC. ("VNCI"), formerly known as
26 Objective Communications, was a Delaware corporation with its principal place of business in
27 Portsmouth, New Hampshire. VNCI manufactured video teleconferencing switches, which it
28 sometimes referred to as PVBX (Private Video Branch Exchange), meaning, a PBX with video

1 conferencing capability. VNCI provided equipment and services for projects funded by the
2 FCC's E-Rate program.

3 5. JUDY GREEN worked as a sales representative for VNCI from 1999 to 2002. JUDY
4 GREEN specialized in marketing VNCI products to educational institutions, including local
5 school districts. JUDY GREEN, while employed at VNCI, also acted as a consultant to school
6 districts in order to assist them in designing computer networks, identifying potential
7 government-sponsored funding sources, such as the FCC's E-Rate program, and applying for
8 these funds.

9 6. GEORGE MARCHELOS worked as a sales representative for VNCI from 1999 into
10 2002. MARCHELOS specialized in marketing VNCI products to educational institutions,
11 including school districts. MARCHELOS, while employed at VNCI, and after his VNCI
12 employment, also acted as a consultant to school districts in order to assist them in designing
13 computer networks, identifying potential government-sponsored funding sources, such as the
14 FCC's E-Rate program, and applying for these funds.

15 SCHEMES TO DEFRAUD

16 7. In the Northern District of California and elsewhere, as set forth in Counts One through
17 Eleven and Twenty-Two below, the defendants devised and intended to devise schemes and
18 artifices to defraud the FCC and USAC as to a material matter and to obtain money and property
19 by means of materially false and fraudulent pretenses, representations and promises, in relation to
20 various E-Rate projects in school districts around the country.

21 PURPOSE OF THE SCHEMES

22 8. It was a purpose of each scheme to defraud that the defendants would unlawfully enrich
23 themselves through:

- 24 a. Control of the bidding, application, implementation, and invoicing process
25 at the project, which the defendants intended to be funded by the E-Rate
26 Program;
- 27 b. The submission of materially false and misleading information to USAC
28 in order to obtain E-Rate program funding for the project;

- 1 c. The omission and misrepresentation of information that would have
2 resulted in the denial or significant reduction of E-Rate program funding
3 for the project; and
4 d. The concealment of all of the above from the FCC and USAC.

5 MANNER AND MEANS OF EXECUTING THE SCHEMES

6 In each scheme to defraud:

7 9. The defendants and others known and unknown to the Grand Jury deceived and intended
8 to deceive the FCC and USAC into believing that the affected school district was applying for
9 funds to pay only for eligible equipment, when, in fact, the defendants had included the costs of
10 ineligible end-user equipment and services ("in-kinds") as part of the costs of the eligible
11 equipment set forth in the school district's funding application for the project.

12 10. The defendants and others known and unknown to the Grand Jury deceived and intended
13 to deceive the FCC and USAC into believing that the affected school district budgeted for,
14 possessed, or had the resources available to acquire the end-user equipment necessary to make
15 use of the E-Rate funded equipment, and had budgeted funds to pay the school district's co-pay
16 share.

17 11. The defendants and others known and unknown to the Grand Jury created and prepared
18 and intended to create and prepare documents and other written materials containing materially
19 false statements and omissions in order to deceive and mislead the FCC and USAC into
20 believing that the affected school district was applying for funds for only eligible equipment, that
21 the school district had the resources available to purchase the end-user equipment, and that the
22 district could fund its co-pay, as described in paragraphs Nine and Ten above. The defendants
23 caused these materially false and misleading documents to be submitted to USAC in support of
24 the school district's funding application.

25 COUNT ONE: 18 U.S.C. §§ 1343 and 2 (Wire Fraud and Aiding and Abetting)

26 THE WEST FRESNO SCHEME

27 12. From in or about November 1998 until in or about June 2001, in the Northern District of
28 California and elsewhere, the defendants

1 JUDY GREEN,
2 GEORGE MARCHELOS,
3 ADJ CONSULTANTS, INC.,
4 VIDEO NETWORK COMMUNICATIONS, INC.,
5 HOWE ELECTRIC, INC.,
6 EARL NELSON, and
7 STEVEN NEWTON,

8 and others known and unknown to the Grand Jury, did knowingly and intentionally devise and
9 intend to devise a scheme and artifice to defraud the FCC and USAC as to a material matter and
10 to obtain money and property by means of materially false and fraudulent pretenses,
11 representations and promises, related to the E-Rate project for the West Fresno Elementary
12 School District located in Fresno, California (hereinafter in this Count "the district").

13 THE DEFENDANTS

14 13. The defendants in this Count include those described in paragraphs Four through Six,
15 which are realleged as if fully set forth here.

16 14. HOWE ELECTRIC, INC. ("HOWE") was a California corporation with headquarters in
17 Fresno, California, that supplies electrical and other contracting services for commercial projects
18 in the Fresno, California area. HOWE provided equipment and services for projects funded by
19 the FCC's E-Rate program.

20 15. ADJ CONSULTANTS, INC. ("ADJ") was a California company, owned by defendant
21 JUDY GREEN and her husband, ALLAN GREEN, that provided consulting services to schools
22 and other entities wishing to participate in the FCC's E-Rate program. ADJ received funds from
23 vendors working at projects funded by the FCC's E-Rate program. JUDY GREEN also worked
24 for ADJ, both before and after her employment at VNCI. JUDY GREEN marketed herself,
25 through ADJ, as experienced in designing and installing computer networks, identifying potential
26 government-sponsored funding sources, such as the FCC's E-Rate program, and applying for
27 these funds.

28 16. STEVEN NEWTON was a former Vice President at Premio Computers, Inc., a
manufacturer and distributor of computers, servers and related equipment. In that position,
NEWTON worked with JUDY GREEN to provide computer-related goods and services to be
funded by the FCC's E-Rate program.

1 17. EARL NELSON was a former Emeryville, California, branch manager for Inter-Tel
2 Technologies, Inc., which manufactured, sold and installed telecommunications equipment. In
3 that position, NELSON supervised individuals at Inter-Tel who provided equipment and services
4 for projects funded by the FCC's E-Rate program.

5 THE PURPOSE OF THE SCHEME

6 18. Paragraph Eight is realleged as if fully set forth here.

7 19. Another purpose of the scheme to defraud was to unlawfully enrich the defendants
8 through the submission of materially false and misleading invoices to receive payment of E-Rate
9 funds for the project.

10 MANNER AND MEANS OF EXECUTING THE SCHEME

11 20. Paragraphs Nine through Eleven are realleged as if fully set forth here.

12 21. It was further part of the scheme to defraud that the defendants and others known and
13 unknown to the Grand Jury deceived and intended to deceive the FCC and USAC into believing
14 that the district was applying for funds to pay only for eligible equipment when, in truth, the
15 defendants had included the costs of ineligible video equipment and marketing and management
16 fees as part of the costs of the eligible equipment set forth in the district's funding application for
17 the project.

18 22. It was further part of the scheme that the defendants and others known and unknown to
19 the Grand Jury did not seek to collect payment from the district for the district's co-pay. In doing
20 so, the defendants and others intended to deceive the FCC and USAC into believing that the
21 district was paying its co-pay when, as the defendants and others well knew, the entire cost of the
22 project was to be funded by the E-Rate program, contrary to FCC regulations and USAC policy.

23 23. It was further part of the scheme that the defendants and others known and unknown to
24 the Grand Jury caused USAC to be invoiced for the entire cost of the district project. Upon
25 receipt of these invoices, USAC paid the defendants and others money, believing that the
26 invoices were only for USAC's share of the cost of the project when, in truth, they represented
27 the entire cost of the project.

28 24. It was further part of the scheme that the defendants and others known and unknown to

1 the Grand Jury submitted to USAC the USAC Forms 474 (Requests for Payment) that falsely
2 stated that equipment or services had been provided or delivered on the district's E-Rate project,
3 when, in truth, the equipment or services had not been provided or delivered. In response to
4 these false Forms 474, USAC sent payments to the defendants and others for the project.

5 USE OF INTERSTATE WIRE FACILITIES IN FURTHERANCE OF THE SCHEME

6 25. On or about June 19, 2000, in the Northern District of California and elsewhere, for the
7 purpose of executing the scheme and artifice to defraud, the defendants knowingly transmitted
8 and caused to be transmitted by wire communication in interstate commerce the following
9 writing: a June 19, 2000 e-mail from MARCHELOS in Saratoga, California, through Phoenix,
10 Arizona to an Inter-tel employee in Salt Lake City, Utah, containing false responses to USAC's
11 inquiry about the district's E-Rate project PBXs.

12 All in violation of Title 18, United States Code, Sections 1343 and 2.

13 COUNT TWO: 18 U.S.C. §§ 1343 and 2 (Wire Fraud and Aiding and Abetting)

14 THE HIGHLAND PARK SCHEME

15 26. From in or about November 1998 until in or about June 2001, in the Northern District of
16 California and elsewhere, the defendants

17 JUDY GREEN,
18 GEORGE MARCHELOS,
19 ADJ CONSULTANTS, INC.,
20 VIDEO NETWORK COMMUNICATIONS, INC.,
EARL NELSON, and
STEVEN NEWTON,

21 and others known and unknown to the Grand Jury, did knowingly and intentionally devise and
22 intend to devise a scheme and artifice to defraud the FCC and USAC as to a material matter and
23 to obtain money and property by means of materially false and fraudulent pretenses,
24 representations and promises, related to the E-Rate project for the Highland Park School District
25 located in Highland Park, Michigan (hereinafter in this Count "the district").

26 THE DEFENDANTS

27 27. The defendants in this Count are described in paragraphs Four through Six and Fifteen
28 through Seventeen, which are realleged as if fully set forth here.

1 THE PURPOSE OF THE SCHEME

2 28. The purposes set forth in Paragraph Eight and Nineteen are realleged as if fully set forth
3 here.

4 MANNER AND MEANS OF EXECUTING THE SCHEME

5 29. The manner and means set forth in Paragraphs Nine through Eleven and Twenty-One
6 through Twenty-Four are realleged as if fully set forth here.

7 USE OF INTERSTATE WIRE FACILITIES IN FURTHERANCE OF THE SCHEME

8 30. On or about May 31, 2000, in the Northern District of California and elsewhere, for the
9 purpose of executing the scheme and artifice to defraud, the defendants knowingly transmitted
10 and caused to be transmitted by wire communication in interstate commerce the following
11 writing: a May 31, 2000 telephonic facsimile from an Inter-tel employee in Emeryville,
12 California, to a VNCI employee in Portsmouth, New Hampshire, concerning ineligible
13 equipment and forgiveness of co-pay amounts.

14 All in violation of Title 18, United States Code, Sections 1343 and 2.

15 COUNT THREE: 18 U.S.C. §§ 1343 and 2 (Wire Fraud and Aiding and Abetting)

16 THE COVERT SCHEME

17 31. From in or about November 1999 until in or about June 2001, in the Northern District of
18 California and elsewhere, the defendants

19 JUDY GREEN,
20 GEORGE MARCHELOS, and
21 VIDEO NETWORK COMMUNICATIONS, INC.,

22 and others known and unknown to the Grand Jury, did knowingly and intentionally devise and
23 intend to devise a scheme and artifice to defraud the FCC and USAC as to a material matter and
24 to obtain money and property by means of materially false and fraudulent pretenses,
25 representations and promises, related to the E-Rate project for the Covert Public School District
located in Covert, Michigan (hereinafter in this Count "the district").

26 THE DEFENDANTS

27 32. The defendants in this Count are described in paragraphs Four through Six, which are
28 realleged as if fully set forth here.

1 THE PURPOSE OF THE SCHEME

2 33. Paragraphs Eight and Nineteen are realleged as if fully set forth here.

3 MANNER AND MEANS OF EXECUTING THE SCHEME

4 34. Paragraphs Nine through Eleven and Twenty-One through Twenty-Four are realleged as
5 if fully set forth here.

6 USE OF INTERSTATE WIRE FACILITIES IN FURTHERANCE OF THE SCHEME

7 35. On or about June 18, 2000, in the Northern District of California and elsewhere, for the
8 purpose of executing the scheme and artifice to defraud, the defendants knowingly transmitted
9 and caused to be transmitted by wire communication in interstate commerce the following
10 writing: a June 18, 2000 e-mail from JUDY GREEN in Long Beach, California, to two NEC-
11 BNS employees in Irving, Texas, and an NEC-BNS employee in San Ramon, California,
12 concerning creating contracts with false dates.

13 All in violation of Title 18, United States Code, Sections 1343 and 2.

14 COUNT FOUR: 18 U.S.C. §§ 1343 and 2 (Wire Fraud and Aiding and Abetting)

15 THE LEE COUNTY SCHEME

16 36. From in or about November 1999 until in or about June 2001, in the Northern District of
17 California and elsewhere, the defendants

18 JUDY GREEN,
19 GEORGE MARCHELOS, and
20 VIDEO NETWORK COMMUNICATIONS, INC.,

21 and others known and unknown to the Grand Jury, did knowingly and intentionally devise and
22 intend to devise a scheme and artifice to defraud the FCC and USAC as to a material matter and
23 to obtain money and property by means of materially false and fraudulent pretenses,
24 representations and promises, related to the E-Rate project for the Lee County School District
Number 1 headquartered in Marianna, Arkansas (hereinafter in this Count "the district").

25 THE DEFENDANTS

26 37. The defendants in this Count are described in paragraphs Four through Six, which are
27 realleged as if fully set forth here.

28 //

1 THE PURPOSE OF THE SCHEME

2 38. Paragraphs Eight and Nineteen are realleged as if fully set forth here.

3 MANNER AND MEANS OF EXECUTING THE SCHEME

4 39. Paragraphs Nine through Eleven and Twenty-One through Twenty-Four are realleged as
5 if fully set forth here.

6 USE OF INTERSTATE WIRE FACILITIES IN FURTHERANCE OF THE SCHEME

7 40. On or about February 26, 2001, in the Northern District of California and elsewhere, for
8 the purpose of executing the scheme and artifice to defraud, the defendants knowingly
9 transmitted and caused to be transmitted by wire communication in interstate commerce the
10 following writing: a February 26, 2001 e-mail from a NEC-BNS employee in Irving, Texas, to a
11 Lee County School District employee in Marianna, Arkansas, and to a NEC-BNS employee in
12 San Ramon, California, concerning reducing the scope of the district's E-Rate project to pay for
13 in-kinds.

14 All in violation of Title 18, United States Code, Sections 1343 and 2.

15 COUNT FIVE: 18 U.S.C. §§ 1343 and 2 (Wire Fraud and Aiding and Abetting)

16 THE JASPER COUNTY SCHEME

17 41. From in or about November 1999 until in or about June 2001, in the Northern District of
18 California and elsewhere, the defendants

19 JUDY GREEN,
20 GEORGE MARCHELOS, and
21 VIDEO NETWORK COMMUNICATIONS, INC.,

22 and others known and unknown to the Grand Jury, did knowingly and intentionally devise and
23 intend to devise a scheme and artifice to defraud the FCC and USAC as to a material matter and
24 to obtain money and property by means of materially false and fraudulent pretenses,
25 representations and promises, related to the E-Rate project for the Jasper County School District
26 headquartered in Ridgeland, South Carolina (hereinafter in this Count "the district").

26 THE DEFENDANTS

27 42. The defendants in this Count are described in paragraphs Four through Six, which are
28 realleged as if fully set forth here.

1 THE PURPOSE OF THE SCHEME

2 43. Paragraphs Eight and Nineteen are realleged as if fully set forth here.

3 MANNER AND MEANS OF EXECUTING THE SCHEME

4 44. Paragraphs Nine through Eleven and Twenty-One through Twenty-Four are realleged as
5 if fully set forth here.

6 USE OF INTERSTATE WIRE FACILITIES IN FURTHERANCE OF THE SCHEME

7 45. On or about August 17, 2000, in the Northern District of California and elsewhere, for
8 the purpose of executing the scheme and artifice to defraud, the defendants knowingly
9 transmitted and caused to be transmitted by wire communication in interstate commerce the
10 following writing: an August 17, 2000 e-mail from MARCHELOS in Saratoga, California, to a
11 Jasper County School District employee in Ridgeland, South Carolina, concerning false
12 responses to USAC's inquiry about bidding.

13 All in violation of Title 18, United States Code, Sections 1343 and 2.

14 COUNT SIX: 18 U.S.C. §§ 1343 and 2 (Wire Fraud and Aiding and Abetting)

15 THE ECORSE SCHEME

16 46. From in or about November 1999 until in or about June 2001, in the Northern District of
17 California and elsewhere, the defendants

18 JUDY GREEN,
19 GEORGE MARCHELOS, and
20 VIDEO NETWORK COMMUNICATIONS, INC.,

21 and others known and unknown to the Grand Jury, did knowingly and intentionally devise and
22 intend to devise a scheme and artifice to defraud the FCC and USAC as to a material matter and
23 to obtain money and property by means of materially false and fraudulent pretenses,
24 representations and promises, related to the E-Rate project for the Ecorse Public School located
25 in Ecorse, Michigan (hereinafter in this Count "the district").

26 THE DEFENDANTS

27 47. The defendants in this Count are described in paragraphs Four through Six, which are
28 realleged as if fully set forth here.

INDICTMENT

1 THE PURPOSE OF THE SCHEME

2 48. Paragraphs Eight and Nineteen are realleged as if fully set forth here.

3 MANNER AND MEANS OF EXECUTING THE SCHEME

4 49. Paragraphs Nine through Eleven and Twenty-One through Twenty-Four are realleged as
5 if fully set forth here.

6 USE OF INTERSTATE WIRE FACILITIES IN FURTHERANCE OF THE SCHEME

7 50. On or about May 29, 2001, in the Northern District of California and elsewhere, for the
8 purpose of executing the scheme and artifice to defraud, the defendants knowingly transmitted
9 and caused to be transmitted by wire communication in interstate commerce the following
10 writing: a May 29, 2001 e-mail from an NEC-BNS employee in Cleveland, Ohio, to a NEC-BNS
11 employee in San Ramon, California, concerning reducing the scope of the district's project to pay
12 for in-kinds.

13 All in violation of Title 18, United States Code, Sections 1343 and 2.

14 COUNT SEVEN: 18 U.S.C. §§ 1343 and 2 (Wire Fraud and Aiding and Abetting)

15 THE CERIA TRAVIS SCHEME

16 51. From in or about November 1999 until in or about June 2001, in the Northern District of
17 California and elsewhere, the defendants

18 JUDY GREEN,
19 GEORGE MARCHELOS, and
20 VIDEO NETWORK COMMUNICATIONS, INC.,

21 and others known and unknown to the Grand Jury, did knowingly and intentionally devise and
22 intend to devise a scheme and artifice to defraud the FCC and USAC as to a material matter and
23 to obtain money and property by means of materially false and fraudulent pretenses,
24 representations and promises, related to the E-Rate project for the Ceria Travis Academy located
in Milwaukee, Wisconsin (hereinafter in this Count "the district").

25 THE DEFENDANTS

26 52. The defendants in this Count are described in paragraphs Four through Six, which are
27 realleged as if fully set forth here.

28 //

1 THE PURPOSE OF THE SCHEME

2 53. Paragraphs Eight and Nineteen are realleged as if fully set forth here.

3 MANNER AND MEANS OF EXECUTING THE SCHEME

4 54. Paragraphs Nine through Eleven and Twenty-One through Twenty-Four are realleged as
5 if fully set forth here.

6 USE OF INTERSTATE WIRE FACILITIES IN FURTHERANCE OF THE SCHEME

7 55. On or about November 8, 2000, in the Northern District of California and elsewhere, for
8 the purpose of executing the scheme and artifice to defraud, the defendants knowingly
9 transmitted and caused to be transmitted by wire communication in interstate commerce the
10 following writing: a November 8, 2000 e-mail from a VNCI employee in Portsmouth, New
11 Hampshire, to a NEC-BNS employee in Irving, Texas, and to MARCHELOS in Saratoga,
12 California, concerning sending a quote for video equipment.

13 All in violation of Title 18, United States Code, Sections 1343 and 2.

14 COUNT EIGHT: 18 U.S.C. §§ 1343 and 2 (Wire Fraud and Aiding and Abetting)

15 THE MUSKEGON HEIGHTS SCHEME

16 56. From in or about November 1999 until in or about June 2000, in the Northern District of
17 California and elsewhere, the defendants

18 JUDY GREEN,
19 GEORGE MARCHELOS, and
20 VIDEO NETWORK COMMUNICATIONS, INC.,

21 and others known and unknown to the Grand Jury, did knowingly and intentionally devise and
22 intend to devise a scheme and artifice to defraud the FCC and USAC as to a material matter and
23 to obtain money and property by means of materially false and fraudulent pretenses,
24 representations and promises, related to the E-Rate project for the Muskegon Heights School
District located in Muskegon Heights, Michigan (hereinafter in this Count "the district").

25 THE DEFENDANTS

26 57. The defendants in this Count are described in paragraphs Four through Six, which are
27 realleged as if fully set forth here.

28 //

1 THE PURPOSE OF THE SCHEME

2 58. Paragraph Eight is realleged as if fully set forth here.

3 MANNER AND MEANS OF EXECUTING THE SCHEME

4 59. Paragraphs Nine through Eleven and Twenty-One are realleged as if fully set forth here.

5 USE OF INTERSTATE WIRE FACILITIES IN FURTHERANCE OF THE SCHEME

6 60. On or about May 30, 2000, in the Northern District of California and elsewhere, for the
7 purpose of executing the scheme and artifice to defraud, the defendants knowingly transmitted
8 and caused to be transmitted by wire communication in interstate commerce the following
9 writing: a May 30, 2000 e-mail from MARCHELOS in Saratoga, California, to a Muskegon
10 Heights School District employee in Muskegon Heights, Michigan, containing instructions for
11 submitting false responses to USAC.

12 All in violation of Title 18, United States Code, Sections 1343 and 2.

13 COUNT NINE: 18 U.S.C. §§ 1343 and 2 (Wire Fraud and Aiding and Abetting)

14 THE SAN FRANCISCO SCHEME

15 61. From in or about November 1999 until in or about June 2001, in the Northern District of
16 California and elsewhere, the defendants

17 JUDY GREEN,
18 GEORGE MARCHELOS,
19 VIDEO NETWORK COMMUNICATIONS, INC., and
20 EARL NELSON,

21 and others known and unknown to the Grand Jury, did knowingly and intentionally devise and
22 intend to devise a scheme and artifice to defraud the FCC and USAC as to a material matter and
23 to obtain money and property by means of materially false and fraudulent pretenses,
24 representations and promises, related to the E-Rate project for the San Francisco Unified School
25 District (hereinafter in this Count "the district").

26 THE DEFENDANTS

27 62. The defendants in this Count are described in paragraphs Four through Six and
28 Seventeen, which are realleged as if fully set forth here.

1 THE PURPOSE OF THE SCHEME

2 63. Paragraph Eight is realleged as if fully set forth here.

3 MANNER AND MEANS OF EXECUTING THE SCHEME

4 64. Paragraphs Nine through Eleven and Twenty-One are realleged as if fully set forth here.

5 USE OF INTERSTATE WIRE FACILITIES IN FURTHERANCE OF THE SCHEME

6 65. On or about August 21, 2000, in the Northern District of California and elsewhere, for
7 the purpose of executing the scheme and artifice to defraud, the defendants knowingly
8 transmitted and caused to be transmitted by wire communication in interstate commerce the
9 following writing: an August 21, 2000 telephonic facsimile from a San Francisco Unified School
10 District employee in San Francisco, California, to a USAC employee in Whippany, New Jersey,
11 containing false bid summaries.

12 All in violation of Title 18, United States Code, Sections 1343 and 2.

13 COUNT TEN: 18 U.S.C. §§ 1343 and 2 (Wire Fraud and Aiding and Abetting)

14 THE W.E.B. DUBOIS SCHEME

15 66. From in or about November 1999 until in or about June 2001, in the Northern District of
16 California and elsewhere, the defendants

17 JUDY GREEN,
18 GEORGE MARCHELOS,
19 VIDEO NETWORK COMMUNICATIONS, INC., and
 HOWE ELECTRIC, INC.,

20 and others known and unknown to the Grand Jury, did knowingly and intentionally devise and
21 intend to devise a scheme and artifice to defraud the FCC and USAC as to a material matter and
22 to obtain money and property by means of materially false and fraudulent pretenses,
23 representations and promises, related to the E-Rate project for the W.E.B. DuBois Charter
24 School located in Fresno, California (hereinafter in this Count "the district").

25 THE DEFENDANTS

26 67. The defendants in this Count are described in paragraphs Four through Six and Fourteen,
27 which are realleged as if fully set forth here.

28 //

1 THE PURPOSE OF THE SCHEME

2 68. Paragraphs Eight and Nineteen are realleged as if fully set forth here.

3 MANNER AND MEANS OF EXECUTING THE SCHEME

4 69. Paragraphs Nine through Eleven and Twenty-One through Twenty-Four are realleged as
5 if fully set forth here.

6 USE OF INTERSTATE WIRE FACILITIES IN FURTHERANCE OF THE SCHEME

7 70. On or about June 28, 2000, in the Northern District of California and elsewhere, for the
8 purpose of executing the scheme and artifice to defraud, the defendants knowingly transmitted
9 and caused to be transmitted by wire communication in interstate commerce the following
10 writing: a June 28, 2000 e-mail from JUDY GREEN in Long Beach, California, to an Inter-tel
11 employee in Emeryville, California, and to MARCHELOS in Saratoga, California, concerning
12 creating false PBX parts schedules.

13 All in violation of Title 18, United States Code, Sections 1343 and 2.

14 COUNT ELEVEN: 18 U.S.C. §§ 1343 and 2 (Wire Fraud and Aiding and Abetting)

15 THE LUTHER BURBANK SCHEME

16 71. From in or about November 2000 until in or about November 2003, in the Northern
17 District of California and elsewhere, the defendants

18 JUDY GREEN,
19 GEORGE MARCHELOS,
20 ADJ CONSULTANTS, INC.,
21 VIDEO NETWORK COMMUNICATIONS, INC.,
 SEMA4, INC., and
 STEVEN NEWTON,

22 and others known and unknown to the Grand Jury, did knowingly and intentionally devise and
23 intend to devise a scheme and artifice to defraud the FCC and USAC as to a material matter and
24 to obtain money and property by means of materially false and fraudulent pretenses,
25 representations and promises, related to the E-Rate project for the Luther Burbank School
26 District located in San Jose, California (hereinafter in this Count "the district").

27 THE DEFENDANTS

28 72. The defendants in this Count include those described in paragraphs Four through Six and

1 Fifteen, which are realleged as if fully set forth here.

2 73. SEMA4, INC. ("SEMA4"), a California company headquartered in Capistrano Beach,
3 California, was a systems integrator of computer and communications equipment. SEMA4
4 provided equipment and services for a project funded by the FCC's E-Rate program.

5 74. STEVEN NEWTON was a former Vice President at Premio Computers, Inc., and had an
6 ownership interest in, and was the principal manager of, SEMA4. In those positions, NEWTON
7 worked with JUDY GREEN to provide computer-related goods and services for projects funded
8 by the FCC's E-Rate program.

9 THE PURPOSE OF THE SCHEME

10 75. Paragraphs Eight and Nineteen are realleged as if fully set forth here.

11 MANNER AND MEANS OF EXECUTING THE SCHEME

12 76. Paragraphs Nine through Eleven and Twenty-Two through Twenty-Four are realleged as
13 if fully set forth here.

14 USE OF INTERSTATE WIRE FACILITIES IN FURTHERANCE OF THE SCHEME

15 77. On or about May 25, 2001, in the Northern District of California and elsewhere, for the
16 purpose of executing the scheme and artifice to defraud, the defendants knowingly transmitted
17 and caused to be transmitted by wire communication in interstate commerce the following
18 writing: a May 25, 2001 telephonic facsimile from a Luther Burbank School District employee in
19 San Jose, California, to USAC in Whippany, New Jersey, requesting changing the service
20 provider to SEMA4.

21 All in violation of Title 18, United States Code, Sections 1343 and 2.

22 COUNT TWELVE: 15 U.S.C. § 1, 18 U.S.C. § 2 (Collusion and Aiding and Abetting)

23 THE WEST FRESNO CONSPIRACY

24 78. From in or about November 1998 until in or about June 2001, the defendants

25 JUDY GREEN,
26 GEORGE MARCHELOS,
27 EARL NELSON,
28 ADJ CONSULTANTS, INC.,
VIDEO NETWORK COMMUNICATIONS, INC., and
HOWE ELECTRIC, INC.,

1 and others known and unknown to the Grand Jury, entered into and engaged in a combination
2 and conspiracy to suppress and restrain competition for an E-Rate project at the West Fresno
3 Elementary School District in Fresno, California ("the project"), in unreasonable restraint of
4 interstate trade and commerce, in violation of the Sherman Act, Title 15, United States Code,
5 Section 1.

6 79. The charged combination and conspiracy consisted of a continuing agreement,
7 understanding, and concert of action among the defendants and co-conspirators, the substantial
8 terms of which were:

- 9 a. to allocate among the defendants and co-conspirators the project;
- 10 b. to submit collusive, noncompetitive, and rigged bids for the
11 project; and
- 12 c. to provide equipment and services for the project and receive
13 payment from USAC as a result of the allocation and collusive
14 bidding.

15 80. The defendants

16 JUDY GREEN,
17 GEORGE MARCHELOS,
18 ADJ CONSULTANTS, INC., and
VIDEO NETWORK COMMUNICATIONS, INC.,

19 aided, abetted, counseled, commanded, induced and procured the combination and
20 conspiracy charged in this Count and willfully caused others to perform acts and make
21 statements in furtherance of the charged combination and conspiracy, in violation of Title
22 18, United States Code, Section 2.

23 MEANS AND METHODS OF THE CONSPIRACY

24 81. For the purpose of forming and carrying out the charged combination and conspiracy, the
25 defendants and co-conspirators did the following things, among others:

- 26 a. discussed prospective bids for the project;
- 27 b. agreed who would be the lead contractor on the project and who
28 would participate on the project as subcontractors to the designated

1 lead contractor;

2 c. submitted fraudulent and non-competitive bids in accordance with
3 the conspiratorial agreement; and

4 d. engaged defendants JUDY GREEN and MARCHELOS, who did
5 the following:

- 6 i. took steps to ensure the success of the conspiracy by
7 eliminating and disqualifying bids from non-conspirators
8 and either directly awarding the contracts or using their best
9 efforts to persuade the school district officials to award
10 contracts to the designated lead contractor; and
11 ii. successively caused to be awarded the project to the
12 defendants and co-conspirators. In return, some of the
13 defendants and co-conspirators agreed to pay and paid
14 defendants JUDY GREEN and MARCHELOS's employer,
15 defendant VNCI, a fee and agreed to purchase and
16 purchased and installed defendant VNCI's equipment on
17 the project.

18 DEFENDANTS AND CO-CONSPIRATORS

19 82. Paragraphs Four through Six, Fourteen, Fifteen and Seventeen are realleged as if fully set
20 forth here.

21 83. Various individuals and corporations, not made defendants in this Indictment,
22 participated as co-conspirators in the charged combination and conspiracy and performed acts
23 and made statements in furtherance of it.

24 84. Whenever this Indictment refers to any act, deed, or transaction of any corporation, it
25 means that the corporation engaged in the act, deed, or transaction by or through its officers,
26 directors, employees, agents, or other representatives while they were actively engaged in the
27 management, direction, control, or transaction of its business or affairs.

28 //

1 TRADE AND COMMERCE

2 85. During the period covered by this Count, bid proposals, USAC forms, and supporting
3 documents were transmitted across state lines in connection with the application for E-Rate
4 funding for the supply of substantial quantities of video and other telecommunication equipment
5 and services at the project. In addition, substantial quantities of video and other
6 telecommunication equipment, and services, and payments for those goods and services, traveled
7 in a continuous and uninterrupted flow of interstate trade and commerce, in connection with the
8 conspiracy charged in this Count.

9 86. During the period covered by this Count, the activities of the defendants and co-
10 conspirators that are the subject of this Count were within the flow of, and substantially affected,
11 interstate trade and commerce.

12 JURISDICTION AND VENUE

13 87. The aforesaid combination and conspiracy was carried out, in part, within the Northern
14 District of California and within the five years preceding the return of this Indictment.

15 All in violation of Title 15, United States Code, Section 1, and Title 18, United States Code,
16 Section 2.

17 COUNT THIRTEEN: 15 U.S.C. § 1, 18 U.S.C. § 2 (Collusion and Aiding and Abetting)

18 THE HIGHLAND PARK CONSPIRACY

19 88. Paragraphs Four through Six, Fifteen, Eighty-Three and Eighty-Four are realleged as if
20 fully set forth here.

21 89. From in or about November 1998 until in or about July 2001, the defendants

22 JUDY GREEN,
23 GEORGE MARCHELOS,
24 ADJ CONSULTANTS, INC., and
VIDEO NETWORK COMMUNICATIONS, INC.,

25 and others known and unknown to the Grand Jury, entered into and engaged in a combination
26 and conspiracy to suppress and restrain competition for an E-Rate project at the Highland Park
27 School District in Highland Park, Michigan ("the project"), in unreasonable restraint of interstate
28 trade and commerce, in violation of the Sherman Act, Title 15, United States Code, Section 1.

1 90. The charged combination and conspiracy consisted of a continuing agreement,
2 understanding, and concert of action among the defendants and co-conspirators, the substantial
3 terms of which were:

- 4 a. to allocate among the defendants and co-conspirators the project;
- 5 b. to submit collusive, noncompetitive, and rigged bids for the
- 6 project; and
- 7 c. to provide equipment and services for the project and receive
- 8 payment from USAC as a result of the allocation and collusive
- 9 bidding.

10 91. The defendants aided, abetted, counseled, commanded, induced, and procured
11 the combination and conspiracy charged in this Count and willfully caused others to
12 perform acts and make statements in furtherance of the charged combination and
13 conspiracy, in violation of Title 18, United States Code, Section 2.

14 92. Paragraphs Eighty-One and Eighty-Five through Eighty-Seven are realleged as if
15 fully set forth here.

16 All in violation of Title 15, United States Code, Section 1, and Title 18, United States Code,
17 Section 2.

18 COUNT FOURTEEN: 15 U.S.C. § 1, 18 U.S.C. § 2 (Collusion and Aiding and Abetting)

19 THE COVERT CONSPIRACY

20 93. Paragraphs Four through Six and Eighty-Three and Eighty-Four are realleged as if fully
21 set forth here.

22 94. From in or about November 1999 until in or about July 2001, the defendants

23 JUDY GREEN,
24 GEORGE MARCHELOS, and
VIDEO NETWORK COMMUNICATIONS, INC.,

25 and others known and unknown to the Grand Jury, entered into and engaged in a combination
26 and conspiracy to suppress and restrain competition for an E-Rate project at the Covert Public
27 School District in Covert, Michigan ("the project"), in unreasonable restraint of interstate trade
28 and commerce, in violation of the Sherman Act, Title 15, United States Code, Section 1.

1 95. The charged combination and conspiracy consisted of a continuing agreement,
2 understanding, and concert of action among the defendants and co-conspirators, the substantial
3 terms of which were:

- 4 a. to allocate among the defendants and co-conspirators the project;
- 5 b. to submit collusive, noncompetitive, and rigged bids for the
- 6 project; and
- 7 c. to provide equipment and services for the project and receive
- 8 payment from USAC as a result of the allocation and collusive
- 9 bidding.

10 96. The defendants aided, abetted, counseled, commanded, induced and procured the
11 combination and conspiracy charged in this Count and willfully caused others to perform
12 acts and make statements in furtherance of the charged combination and conspiracy, in
13 violation of Title 18, United States Code, Section 2.

14 97. Paragraphs Eighty-One and Eighty-Five through Eighty-Seven are realleged as if
15 fully set forth here.

16 All in violation of Title 15, United States Code, Section 1, and Title 18, United States Code,
17 Section 2.

18 COUNT FIFTEEN: 15 U.S.C. § 1, 18 U.S.C. § 2 (Collusion and Aiding and Abetting)

19 THE LEE COUNTY CONSPIRACY

20 98. Paragraphs Four through Six and Eighty-Three and Eighty-Four are realleged as if fully
21 set forth here.

22 99. From in or about November 1999 until in or about July 2001, the defendants

23 JUDY GREEN,
24 GEORGE MARCHELOS, and
VIDEO NETWORK COMMUNICATIONS, INC.,

25 and others known and unknown to the Grand Jury, entered into and engaged in a combination
26 and conspiracy to suppress and restrain competition for an E-Rate project at the Lee County
27 School District Number 1 in Marianna, Arkansas ("the project"), in unreasonable restraint of
28 interstate trade and commerce, in violation of the Sherman Act, Title 15, United States Code,

1 Section 1.

2 100. The charged combination and conspiracy consisted of a continuing agreement,
3 understanding, and concert of action among the defendants and co-conspirators, the substantial
4 terms of which were:

- 5 a. to allocate among the defendants and co-conspirators the project;
- 6 b. to submit collusive, noncompetitive, and rigged bids for the
7 project; and
- 8 c. to provide equipment and services for the project and receive
9 payment from USAC as a result of the allocation and collusive
10 bidding.

11 101. The defendants aided, abetted, counseled, commanded, induced, and procured
12 the combination and conspiracy charged in this Count and willfully caused others to
13 perform acts and make statements in furtherance of the charged combination and
14 conspiracy, in violation of Title 18, United States Code, Section 2.

15 102. Paragraphs Eighty-One and Eighty-Five through Eighty-Seven are realleged as
16 if fully set forth here.

17 All in violation of Title 15, United States Code, Section 1, and Title 18, United States Code,
18 Section 2.

19 COUNT SIXTEEN: 15 U.S.C. § 1, 18 U.S.C. § 2 (Collusion and Aiding and Abetting)

20 THE JASPER COUNTY CONSPIRACY

21 103. Paragraphs Four through Six, Eighty-Three, and Eighty-Four are realleged as if fully set
22 forth here.

23 104. From in or about November 1999 until in or about July 2001, the defendants

24 JUDY GREEN,
25 GEORGE MARCHELOS, and
26 VIDEO NETWORK COMMUNICATIONS, INC.,

27 and others known and unknown to the Grand Jury, entered into and engaged in a combination
28 and conspiracy to suppress and restrain competition for an E-Rate project at the Jasper County
School District in Ridgeland, South Carolina ("the project"), in unreasonable restraint of

1 interstate trade and commerce, in violation of the Sherman Act, Title 15, United States Code,
2 Section 1.

3 105. The charged combination and conspiracy consisted of a continuing agreement,
4 understanding, and concert of action among the defendants and co-conspirators, the substantial
5 terms of which were:

- 6 a. to allocate among the defendants and co-conspirators the project;
- 7 b. to submit collusive, noncompetitive, and rigged bids for the
8 project; and
- 9 c. to provide equipment and services for the project and receive
10 payment from USAC as a result of the allocation and collusive
11 bidding.

12 106. The defendants aided, abetted, counseled, commanded, induced and procured
13 the combination and conspiracy charged in this Count and willfully caused others to
14 perform acts and make statements in furtherance of the charged combination and
15 conspiracy, in violation of Title 18, United States Code, Section 2.

16 107. Paragraphs Eighty-One and Eighty-Five through Eighty-Seven are realleged as
17 if fully set forth here.

18 All in violation of Title 15, United States Code, Section 1, and Title 18, United States Code,
19 Section 2.

20 COUNT SEVENTEEN: 15 U.S.C. § 1, 18 U.S.C. § 2 (Collusion and Aiding and Abetting)

21 THE ECORSE CONSPIRACY

22 108. Paragraphs Four through Six, Eighty-Three, and Eighty-Four are realleged as if fully set
23 forth here.

24 109. From in or about November 1999 until in or about July 2001, the defendants

25 JUDY GREEN,
26 GEORGE MARCHELOS, and
VIDEO NETWORK COMMUNICATIONS, INC.,

27 and others known and unknown to the Grand Jury entered into and engaged in a combination and
28 conspiracy to suppress and restrain competition for an E-Rate project at the Ecorse Public School

1 in Ecorse, Michigan ("the project"), in unreasonable restraint of interstate trade and commerce, in
2 violation of the Sherman Act, Title 15, United States Code, Section 1.

3 110. The charged combination and conspiracy consisted of a continuing agreement,
4 understanding, and concert of action among the defendants and co-conspirators, the substantial
5 terms of which were:

- 6 a. to allocate among the defendants and co-conspirators the project;
- 7 b. to submit collusive, noncompetitive, and rigged bids for the
8 project; and
- 9 c. to provide equipment and services for the project and receive
10 payment from USAC as a result of the allocation and collusive
11 bidding.

12 111. The defendants aided, abetted, counseled, commanded, induced and procured
13 the combination and conspiracy charged in this Count and willfully caused others to
14 perform acts and make statements in furtherance of the charged combination and
15 conspiracy, in violation of Title 18, United States Code, Section 2.

16 112. Paragraphs Eighty-One and Eighty-Five through Eighty-Seven are realleged as
17 if fully set forth here.

18 All in violation of Title 15, United States Code, Section 1, and Title 18, United States Code,
19 Section 2.

20 COUNT EIGHTEEN: 15 U.S.C. § 1, 18 U.S.C. § 2 (Collusion and Aiding and Abetting)

21 THE CERIA TRAVIS CONSPIRACY

22 113. Paragraphs Four through Six, Eighty-Three, and Eighty-Four are realleged as if fully set
23 forth here.

24 114. From in or about November 1999 until in or about July 2001, the defendants

25 JUDY GREEN,
26 GEORGE MARCHELOS, and
VIDEO NETWORK COMMUNICATIONS, INC.,

27 and others known and unknown to the Grand Jury, entered into and engaged in a combination
28 and conspiracy to suppress and restrain competition for an E-Rate project at the Ceria Travis

1 Academy in Milwaukee, Wisconsin ("the project"), in unreasonable restraint of interstate trade
2 and commerce, in violation of the Sherman Act, Title 15, United States Code, Section 1.

3 115. The charged combination and conspiracy consisted of a continuing agreement,
4 understanding, and concert of action among the defendants and co-conspirators, the substantial
5 terms of which were:

- 6 a. to allocate among the defendants and co-conspirators the project;
- 7 b. to submit collusive, noncompetitive, and rigged bids for the
8 project; and
- 9 c. to provide equipment and services for the project and receive
10 payment from USAC as a result of the allocation and collusive
11 bidding.

12 116. The defendants aided, abetted, counseled, commanded, induced and procured
13 the combination and conspiracy charged in this Count and willfully caused others to
14 perform acts and make statements in furtherance of the charged combination and
15 conspiracy, in violation of Title 18, United States Code, Section 2.

16 117. Paragraphs Eighty-One and Eighty-Five through Eighty-Seven are realleged as
17 if fully set forth here.

18 All in violation of Title 15, United States Code, Section 1, and Title 18, United States Code,
19 Section 2.

20 COUNT NINETEEN: 15 U.S.C. § 1, 18 U.S.C. § 2 (Collusion and Aiding and Abetting)

21 THE MUSKEGON HEIGHTS CONSPIRACY

22 118. Paragraphs Four through Six, Eighty-Three, and Eighty-Four are realleged as if fully set
23 forth here.

24 119. From in or about November 1999 until in or about June 2000, the defendants

25 JUDY GREEN,
26 GEORGE MARCHELOS, and
VIDEO NETWORK COMMUNICATIONS, INC.,

27 and others known and unknown to the Grand Jury, entered into and engaged in a combination
28 and conspiracy to suppress and restrain competition for an E-Rate project at the Muskegon

1 Heights School District in Muskegon Heights, Michigan (“the project”), in unreasonable restraint
2 of interstate trade and commerce, in violation of the Sherman Act, Title 15, United States Code,
3 Section 1.

4 120. The charged combination and conspiracy consisted of a continuing agreement,
5 understanding, and concert of action among the defendants and co-conspirators, the substantial
6 terms of which were:

- 7 a. to allocate among the defendants and co-conspirators the project;
- 8 b. to submit collusive, noncompetitive, and rigged bids for the
9 project; and
- 10 c. to provide equipment and services for the project and receive
11 payment from USAC as a result of the allocation and collusive
12 bidding.

13 121. The defendants aided, abetted, counseled, commanded, induced and procured
14 the combination and conspiracy charged in this Count and willfully caused others to
15 perform acts and make statements in furtherance of the charged combination and
16 conspiracy, in violation of Title 18, United States Code, Section 2.

17 122. Paragraphs Eighty-One and Eighty-Seven are realleged as if fully set forth here,
18 with the exception that Paragraph Eighty-One (d)(ii) is not realleged.

19 TRADE AND COMMERCE

20 123. Bid proposals, USAC forms, and supporting documents submitted as part of the
21 Muskegon Heights School District’s E-Rate application for the funding of the supply of
22 substantial quantities of video and other telecommunication equipment and services were
23 transmitted from locations outside of Michigan to locations in Michigan, from Michigan
24 to locations outside of Michigan, and from locations in California to locations outside of
25 California. Moreover, the conspirators anticipated that defendant VNCI would
26 manufacture and ship substantial quantities of video and other telecommunication
27 equipment from its facilities in New Hampshire to Michigan, in a continuous and
28 uninterrupted flow of interstate commerce, in connection with the conspiracy charged in

1 this Count. Furthermore, the conspirators anticipated that they would receive substantial
2 funds transmitted in interstate commerce from the E-Rate Program for equipment and
3 services provided for the project. The E-Rate program receives substantial funds
4 transmitted in interstate commerce from telecommunication carriers which collect such
5 funds monthly from their customers, located throughout the United States.

6 124. In addition, defendant VNCI's general business activities included
7 manufacturing and purchasing videoconferencing equipment components, as well as
8 shipping videoconferencing equipment from its facilities in New Hampshire to locations
9 in other states, thereby substantially affecting interstate commerce.

10 125. The activities of the defendants that are the subject of this Indictment were
11 within the flow of, and substantially affected, interstate trade and commerce.

12 All in violation of Title 15, United States Code, Section 1, and Title 18, United States Code,
13 Section 2.

14 COUNT TWENTY: 15 U.S.C. § 1, 18 U.S.C. § 2 (Collusion and Aiding and Abetting)

15 THE W.E.B. DUBOIS CONSPIRACY

16 126. Paragraphs Four through Six, Fourteen, Eighty-Three and Eighty-Four are realleged as
17 if fully set forth here.

18 127. From in or about November 1999 until in or about July 2001, the defendants

19 JUDY GREEN,
20 GEORGE MARCHELOS,
21 VIDEO NETWORK COMMUNICATIONS, INC., and
HOWE ELECTRIC, INC.,

22 and others known and unknown to the Grand Jury, entered into and engaged in a combination
23 and conspiracy to suppress and restrain competition for an E-Rate project at the W.E.B. DuBois
24 Charter School in Fresno, California ("the project"), in unreasonable restraint of interstate trade
25 and commerce, in violation of the Sherman Act, Title 15, United States Code, Section 1.

26 128. The charged combination and conspiracy consisted of a continuing agreement,
27 understanding, and concert of action among the defendants and co-conspirators, the substantial
28 terms of which were:

- a. to allocate among the defendants and co-conspirators the project;
- b. to submit collusive, noncompetitive, and rigged bids for the project; and
- c. to provide equipment and services for the project and receive payment from USAC as a result of the allocation and collusive bidding.

129. The defendants

JUDY GREEN,
GEORGE MARCHELOS, and
VIDEO NETWORK COMMUNICATIONS, INC.,

aided, abetted, counseled, commanded, induced, and procured the combination and conspiracy charged in this Count and willfully caused others to perform acts and make statements in furtherance of the charged combination and conspiracy, in violation of Title 18, United States Code, Section 2.

130. Paragraphs Eighty-One and Eighty-Five through Eighty-Seven are realleged as if fully set forth here, with the exception that Paragraph Eighty-One (d)(ii) is not realleged.

All in violation of Title 15, United States Code, Section 1, and Title 18, United States Code, Section 2.

COUNT TWENTY-ONE: 15 U.S.C. § 1, 18 U.S.C. § 2 (Collusion and Aiding and Abetting)

THE 2003-2004 PROJECTS CONSPIRACY (Collusion)

131. Paragraph Fifteen, Eighty-Three and Eighty-Four are realleged as if fully set forth here.

132. JUDY GREEN worked for ADJ. She marketed herself to school districts and others, through ADJ, as experienced in designing and installing computer networks, identifying potential government-sponsored funding sources, such as the FCC's E-Rate program, and applying for these funds.

133. DIGITAL CONNECT COMMUNICATIONS, INC. ("DIGITAL CONNECT") was a California company, headquartered in Capistrano Beach, California, that was established in 2002 to provide telecommunication and Internet access equipment and services to schools participating

1 in the FCC's E-Rate program.

2 134. STEVEN NEWTON was a former Vice President at Premio Computers, Inc., and had
3 an ownership interest in, and was the principal manager of, DIGITAL CONNECT. In those
4 positions, NEWTON worked with JUDY GREEN to provide computer-related goods and
5 services for projects funded by the FCC's E-Rate program.

6 135. EXPEDITION NETWORKS, LTD. ("EXPEDITION") was a California company,
7 headquartered in North Hills, California, that designed and installed computer integrated systems
8 and sought to provide telecommunication and Internet access equipment and services to schools
9 participating in the FCC's E-Rate program in 2003.

10 136. ALLAN GREEN worked for ADJ. JUDY and ALLAN GREEN marketed themselves,
11 through ADJ, as experienced in designing and installing computer networks, identifying potential
12 government-sponsored funding sources, such as the FCC's E-Rate program, and applying for
13 these funds.

14 137. Beginning as early as October 2002 and lasting through at least January 2004, the exact
15 dates being unknown to the Grand Jury, the defendants

16 JUDY GREEN,
17 ALLAN GREEN,
18 ADJ CONSULTANTS, INC.,
19 STEVEN NEWTON,
20 EXPEDITION NETWORKS, and
21 DIGITAL CONNECT,

22 and others known and unknown to the Grand Jury, entered into and engaged in a combination
23 and conspiracy to suppress and restrain competition for fifteen 2003-2004 E-Rate projects ("the
24 2003-2004 projects"), in unreasonable restraint of interstate trade and commerce, in violation of
25 the Sherman Act, Title 15, United States Code, Section 1. The 2003-2004 projects were located
26 at the following school districts:

27 Luther Burbank School District – San Jose, CA
28 Temple City Unified School District – Temple City, CA
Philadelphia Charter Academy School – Philadelphia, PA
Yeshiva of Far Rockaway – Far Rockaway, NY
Barnwell County School District – Blackville, SC
Salkehatchie Consortium – Allendale, SC
Alzheimer Unified School District – Alzheimer, AR
Arkansas River Educational Services Cooperative – Pine Bluff, AR

1 Crossett Public School District – Crossett, AR
2 Dollarway Public School District – Pine Bluff, AR
3 Humphrey Public School District – Humphrey, AR
4 Lakeview School District – Helena, AR
5 Lee County School District – Marianna, AR
6 Poyen Public School District – Poyen, AR
7 Townsend Park Elementary School – Pine Bluff, AR;

8 138. The defendants

9 JUDY GREEN,
10 ALLAN GREEN, and
11 ADJ CONSULTANTS, INC.,

12 aided, abetted, counseled, commanded, induced, and procured the combination and conspiracy
13 charged in this Count and willfully caused others to perform acts and make
14 statements in furtherance of the charged combination and conspiracy, in violation of Title 18,
15 United States Code, Section 2.

16 139. The charged combination and conspiracy consisted of a continuing agreement,
17 understanding, and concert of action among the defendants and co-conspirators, the substantial
18 terms of which were:

- 19 a. to allocate among the defendants and co-conspirators the 2003-
20 2004 projects;
21 b. to submit collusive, noncompetitive, and rigged bids for the 2003-
22 2004 projects; and
23 c. to provide equipment and services for the 2003-2004 projects and
24 receive payment from USAC as a result of the allocation and
25 collusive bidding.

26 MEANS AND METHODS OF THE CONSPIRACY

27 140. For the purpose of forming and carrying out the charged combination and conspiracy,
28 the defendants and co-conspirators did the following things, among others:

- 29 a. discussed prospective bids for the 2003-2004 projects;
30 b. agreed who would be the low bidder on some projects;
31 c. agreed who would be the low bidder on particular portions of some
32 projects;

- 1 d. submitted fraudulent and non-competitive bids in accordance with
2 the conspiratorial agreement; and
3 e. engaged defendant JUDY GREEN to obtain for the defendants the
4 award of the 2003-2004 projects. In return, the defendants agreed
5 to pay fees to defendants JUDY GREEN and/or ADJ.

6 TRADE AND COMMERCE

7 141. Bid proposals, USAC forms, and supporting documents submitted as part of the
8 applications for the funding of the supply of substantial quantities of video and other
9 telecommunication equipment and services at the 2003-2004 projects were transmitted
10 from locations in California to locations outside of California. Moreover, defendants DIGITAL
11 CONNECT and EXPEDITION anticipated that they would ship substantial quantities of servers,
12 routers, switches, and PBXs from California in a continuous and uninterrupted flow of interstate
13 trade and commerce to school districts located in various other states, in connection with the
14 conspiracy charged in this Count. Ultimately, USAC did not provide any E-Rate funding on the
15 2003-2004 projects because of the suspected collusion of the defendants, and thus the school
16 districts involved were denied a substantial quantity of E-Rate services and equipment that would
17 have traveled in a continuous and uninterrupted flow of interstate commerce. In addition, as a
18 result of the conspiracy, non-colluding vendors were denied the opportunity to supply substantial
19 quantities of E-Rate services and equipment on the 2003-2004 projects in a continuous and
20 uninterrupted flow of interstate commerce. Furthermore, the conspirators anticipated that they
21 would receive substantial funds transmitted in interstate commerce from the E-Rate Program for
22 equipment and services provided for the project. The E-Rate program receives substantial funds
23 transmitted in interstate commerce from telecommunication carriers which collect such funds
24 monthly from their customers, located throughout the United States.

25 142. During the relevant period, the activities of the defendants and co-conspirators that are
26 the subject of this Count were within the flow of, and substantially affected, interstate trade and
27 commerce.

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All in violation of Title 15, United States Code, Section 1, and Title 18, United States Code, Section 2.

THE 2003-2004 PROJECTS CONSPIRACY TO DEFRAUD

145. GEORGE MARCHELOS worked as an independent consultant to school districts in order to assist them in designing computer networks, identifying potential government-sponsored funding sources, such as the FCC's E-Rate program, and applying for these funds.

JUDY GREEN,
ALLAN GREEN,
GEORGE MARCHELOS,
STEVEN NEWTON,
ADJ CONSULTANTS, INC.,
DIGITAL CONNECT, and
EXPEDITION NETWORKS,

and others known and unknown to the Grand Jury, did knowingly and intentionally conspire to commit offenses against the United States, namely, mail fraud in violation of Title 18, United States Code, Section 1341, and wire fraud in violation of Title 18, United States Code, Section 1343.

INDICTMENT

1 be sent and delivered by private and commercial interstate carriers, and take and receive
2 therefrom, such matters and things, and knowingly cause such matters and things to be delivered
3 by mail and such carriers according to the direction thereon, and at the place at which they were
4 directed to be delivered by the persons to whom they were addressed, in violation of Title 18,
5 United States Code, Section 1341.

6 148. It was a part of the conspiracy that the defendants and co-conspirators, having devised
7 and intending to devise a scheme and artifice to defraud the FCC and USAC as to a material
8 matter and to obtain money and property by means of materially false and fraudulent pretenses,
9 representations, and promises, in relation to the 2003-2004 projects identified in Paragraph
10 149(a) below, for the purpose of executing such scheme and artifice, knowingly would and did
11 transmit or cause to be transmitted by means of wire communications in interstate commerce,
12 certain writings, signs, signals or sounds, in violation of Title 18, United States Code, Section
13 1343.

14 MEANS AND METHODS OF THE CONSPIRACY

15 149. The defendants and co-conspirators used the following means and methods, among
16 others, to accomplish the conspiracy:

- 17 a. The defendants and co-conspirators controlled the bidding, application,
18 implementation and invoicing process of the E-Rate projects located at the
19 school districts listed below ("the 2003-2004 projects"):

20 Luther Burbank School District – San Jose, CA
21 Temple City Unified School District – Temple City, CA
22 Philadelphia Charter Academy School – Philadelphia, PA
23 Yeshiva of Far Rockaway – Far Rockaway, NY
24 Barnwell County School District – Blackville, SC
25 Salkehatchie Consortium – Allendale, SC
26 Altheimer Unified School District – Altheimer, AR
27 Arkansas River Educational Services Cooperative – Pine Bluff, AR
28 Crossett Public School District – Crossett, AR
Dollarway Public School District – Pine Bluff, AR
Humphrey Public School District – Humphrey, AR
Lakeview School District – Helena, AR
Lee County School District – Marianna, AR
Poyen Public School District – Poyen, AR
Townsend Park Elementary School – Pine Bluff, AR

- b. The defendants and co-conspirators submitted materially false and

misleading information to USAC in order to obtain from USAC a
commitment to provide E-Rate program funding for those projects;

c. The defendants and co-conspirators omitted and misrepresented material
information that would have resulted in the denial or significant reduction
of E-Rate program funding for those projects;

d. The defendants and co-conspirators concealed all of the above from the
FCC and USAC;

e. The defendants and co-conspirators deceived the FCC and USAC into
believing that the schools involved in the 2003-2004 projects were
applying for funds to pay for only eligible equipment, when, in truth, the
defendants and co-conspirators had included the costs of ineligible end-
user equipment and services and costs of marketing and management fees
as part of the costs of the eligible equipment set forth in the funding
applications for those projects;

f. The defendants and co-conspirators prepared and submitted to USAC
Form 471 applications for funding for schools involved in the 2003-2004
projects. On those Forms 471, contrary to USAC rules, the defendants and
co-conspirators inserted equipment and service amounts that were
different than the bid amounts submitted by the defendants awarded those
2003-2004 projects;

g. Contrary to USAC rules, the defendants and co-conspirators planned not
to seek payment from the schools involved in the 2003-2004 projects for
their co-pay. The defendants and co-conspirators created sham
“foundations” and submitted false information and documentation to the
FCC and USAC in an attempt to mislead them into believing that the
foundations had funding resources and had donated, or were going to
donate, to the 2003-2004 project schools funding sufficient to cover the
schools’ co-pay. In truth, the foundations had no such funding resources,

1 and the defendants planned to use USAC funding to cover 100% of the
2 cost of the 2003-2004 projects; and

- 3 h. The defendants and co-conspirators, in response to FCC and USAC
4 inquiries to the 2003-2004 project schools regarding their ability to pay for
5 end-user equipment and services necessary to utilize the applied-for
6 equipment and services, submitted false documentation to USAC
7 representing that the schools had secured access to such resources.

8 OVERT ACTS

9 150. In furtherance of the conspiracy and to effect the objects of the conspiracy, the
10 defendants and co-conspirators committed the following overt acts, among others, in the
11 Northern District of California and elsewhere:

- 12 a. On or about January 13, 2003, an employee of defendant EXPEDITION
13 caused to be delivered through United Parcel Service a funding year 2003-
14 2004 bid proposal to the Luther Burbank School District in San Jose,
15 California.
- 16 b. On or about January 4, 2003, defendants JUDY GREEN, ALLAN
17 GREEN, STEVEN NEWTON, and employees of defendants
18 EXPEDITION and DIGITAL CONNECT met at the offices of defendant
19 ADJ. At this meeting, they discussed prices for equipment and services
20 that were then included in bid proposals for the 2003-2004 projects.
- 21 c. On or about April 29, 2003, defendant JUDY GREEN sent a telephonic
22 facsimile from California to USAC in New Jersey that contained false
23 financial information about a sham foundation, including that the
24 foundation had over \$22 million in assets in 2001 when, in truth, the
25 foundation did not have any such assets.
- 26 d. On or about October 31, 2003, defendant MARCHELOS sent via United
27 Parcel Service, an interstate carrier, from San Jose, California, an appeal
28 letter to USAC on behalf of Luther Burbank that falsely represented that

1 the district had budgeted funds to pay its portion of its proposed 2003-
2 2004 project's cost.

3 e. On or about April 22, 2003, a Luther Burbank employee sent a telephonic
4 facsimile from San Jose, California, to a USAC employee in Whippany,
5 New Jersey, confirming that Luther Burbank had received USAC's request
6 for information about Luther Burbank's funding resources for its co-pay
7 and end-user equipment.

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1 All in violation of Title 18, United States Code, Section 371.
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3 4-07-2005
4 DATED:

A TRUE BILL

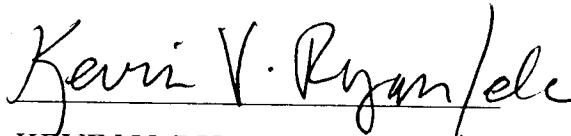
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8 R. HEWITT PATE
Assistant Attorney General
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15 SCOTT D. HAMMOND
Deputy Assistant Attorney General
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19 KEVIN V. RYAN
United States Attorney
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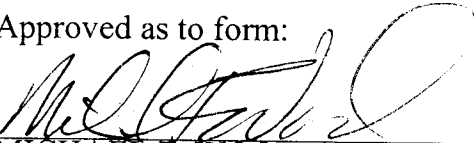
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23 EUMIL L. CHOI
Chief, Criminal Division
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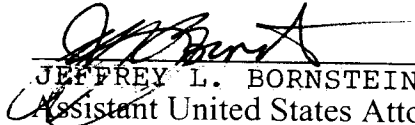
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27 MARC SIEGEL
Director of Criminal Enforcement
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Approved as to form:

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31 MICHAEL F. WOOD
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Antitrust Division
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35 JEFFREY L. BORNSTEIN
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